

REMARKS

Claims 1-21 are presently pending in the application. Claims 1, 2, 4, 8, 13-15, 18 and 21 are rejected. Claims 3, 5-7, 9-12, 16, 17, 19 and 20 are objected to. The specification and drawings stand as filed.

Reconsideration of the objections and rejections set forth in the aforementioned Office Action is respectfully requested in view of the following remarks. The basis for the amendments can be found throughout the Specification, Claims and Drawings as originally filed.

REJECTION UNDER 35 U.S.C. § 103

Claims 1, 8, 13, 14 and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tabata et al. (6,855,090) in view of Nehse (5,678,674). This rejection is respectfully traversed.

Applicants respectfully submit that each of the pending independent claims 1 and 8 relate to an engine control system or a method for controlling an engine for a vehicle having a manual transmission. Tabata et al. discloses a control apparatus for an automotive vehicle having an automatic transmission. Tabata et al. repeatedly states that the invention is effective to reduce the shifting shock of the automatic transmission 16 due to an inertia torque generated by the reduction of the engine speed (Col. 16, lines 41-44). As such, Applicants respectfully submit that Tabata et al. does not disclose an apparatus or a method as defined in claims 1 or 8.

Furthermore, Applicants respectfully submit that Tabata et al. does not disclose a shifter shaft position sensor that generates a shifter shaft position signal or a method of determining a shifter shaft position as recited in claim 1 and 8, respectively. The

Examiner has stated that Tabata et al. discloses a shift shaft position sensor (via shift action determining means). Applicants respectfully disagree.

Col. 10, line 62 through Col. 11, line 5 of Tabata et al. disclose "[t]he shift-up action determining means 100 is arranged to effect a determination as to whether the automatic transmission 16 should be shifted up, for example, from the 2nd-speed position to the 3rd-speed position should be effected. This determination is effected by determining whether the vehicle running condition is represented by a point defined by the detected vehicle speed V and throttle opening angle Θ_{TH} has moved across a predetermined shift-up boundary line, for example, a 2-3 shift-up boundary line, in a direction of increase of the vehicle speed V." As such, it appears that the shift-up action determining means 100 of Tabata et al. is merely an electronic device that evaluates data such as vehicle speed and throttle opening angle to determine if the shift-up boundary line has been crossed and if a shift **should** occur.

On the contrary, Figure 2 and paragraph 25 of the present application clearly illustrate a manual transmission having a shifter shaft 86 that is selectively moveable by an operator to obtain a number of drive ratios. First and second shifter shaft position sensors 46, 48 are clearly depicted in Figure 2 and described throughout the specification. Accordingly, Applicants respectfully submit that a shifter shaft position sensor that generates a shifter shaft position signal or a method of determining a shifter shaft position is not disclosed by Tabata et al. Furthermore, none of the references cited by the Examiner, alone or in combination with one another disclose, teach or suggest each and every element of claim 1 or claim 8. Therefore, Applicants respectfully request the Examiner to withdraw the § 103 rejections.

Claims 2, 15 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tabata et al. in view of Nehse as applied to claims 1 and 8 above, and further in view of Rayl (6,655,353). This rejection is respectfully traversed.

Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Tabata et al. in view of Nehse as applied to claim 1 above, and further in view of Kim (2004/0249541). This rejection is respectfully traversed.

With regard to the rejections to claims 2, 15, 18 and 4, Applicants respectfully rely on the arguments previously provided regarding the combination of Tabata et al. in view of Nehse. Accordingly, Applicants respectfully request withdrawal of the § 103 rejections.

ALLOWABLE SUBJECT MATTER

Claims 3, 5-7, 9-12, 16, 17, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants would like to thank the Examiner for indicating the allowable subject matter. However, Applicants respectfully contend that independent claims 1 and 8 are allowable for the reasons previously set forth. Therefore, Applicants respectfully submit that each of the presently pending claims is in condition for allowance.

CONCLUSION

All of the grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider

all presently outstanding objections and rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding office action, and as such, the present application is in condition for allowance.

If it is believed that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600. Prompt and favorable consideration of this amendment is respectfully requested.

Respectfully submitted,

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